

## Message Text

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ACTION TRSE-00

INFO OCT-01 EA-10 ISO-00 AID-05 CIAE-00 COME-00 EB-08  
FRB-03 INR-10 NSAE-00 ICA-11 XMB-02 OPIC-03 SP-02  
LAB-04 SIL-01 OMB-01 NSC-05 SS-15 STR-07 CEA-01  
L-03 H-01 PA-01 IO-13 NEA-10 /117 W  
-----086155 120922Z /14  
P 120853Z SEP 78  
FM AMEMBASSY MANILA  
TO SECSTATE WASHDC PRIORITY 1419

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USADB

PASS TREASURYDEP FOR SHERK - OASIA

EO 11652:NA  
TAGS: EAID, EFIN, VM, ADB  
SUBJECT: VIET NAM DOLLAR REPAYMENTS

1. NEW YORK FEDERAL RESERVE BANK HAS ADVISED THE ADB THAT IT HAS CREDITED A RECENT PAYMENT BY THE SOCIALIST REPUBLIC OF VIET NAM ON AN ADB LOAN TO A SUSPENSE ACCOUNT PENDING FURTHER CONSULTATIONS WITH THE U.S. DEPARTMENT OF THE TREASURY, SINCE THIS TRANSACTION HAS NOT BEEN AUTHORIZED UNDER THE U.S. TREASURY'S FOREIGN ASSETS CONTROL REGULATIONS. THE TRANSACTION INVOLVES A DOLLARS 5,437.50 PAYMENT BY ORDER OF VIET NAM'S BANK OF FOREIGN TRADE IN HANOI. IN THIS TRANSACTION VIET NAM USED DEUTSCHE MARKS FROM A GERMAN CORRESPONDENT BANK TO REMIT DOLLARS TO THE NEW YORK FED. THE PROCEDURE IS SIMILAR TO THAT FOLLOWED FOR PREVIOUS CREDITS TO ADB'S ACCOUNT BY VIET NAM.

2. USED HAS HELD EXTENSIVE CONVERSATIONS WITH ADB STAFF  
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INCLUDING VICE PRESIDENT AND ACTING GENERAL COUNSEL ON THE SUBJECT OF THE CURRENCY IN WHICH VIET NAM REPAYS ITS OBLIGATIONS TO THE ADB.

3. AS WASHINGTON IS AWARE, ADB PRACTICE REQUIRES A BORROWER TO REPAY ITS DEBTS IN THE CURRENCY IN WHICH THE ORIGINAL LOAN WAS MADE. NO EXCEPTION HAS EVER BEEN MADE

TO THIS RULE, WHICH IS A CONTROVERSIAL ONE SINCE IT HAS MEANT THAT THOSE BORROWERS WHO WERE PROVIDED STRONG CURRENCIES SUCH AS GERMAN MARKS, OR SWISS FRANCS, (WHICH THEY MAY HAVE THEN SOLD FOR NEEDED DOLLARS) HAVE ASSUMED A SUBSTANTIAL POTENTIAL EXCHANGE LOSS, SINCE THEY WILL NEED TO SELL A MUCH LARGER NUMBER OF DOLLARS TO PURCHASE THE REQUIRED YEN, MARKS OR FRANCS AT TIME OF REPAYMENT. THE BOARD HAS REVIEWED THIS PRACTICE AND REFUSED TO CHANGE IT. IN VIEW OF THE IMPORTANCE OF THE POLICY AND THE IMPLICATIONS OF MAKING AN EXCEPTION, THE MANAGEMENT BELIEVES IT WOULD NEED TO OBTAIN BOARD APPROVAL FOR ANY EXCEPTION. IN ANY EVENT, THE MANAGEMENT STRONGLY OPPOSES OPENING THIS ISSUE IN THE BOARD SINCE IT FEARS THAT GRANTING SUCH AN EXCEPTION CAN ONLY OPEN THE DOOR FOR OTHER REQUESTS WHICH IT MIGHT FIND DIFFICULT TO TURN DOWN.

4. THE USADB FULLY CONCURS IN THE UNDESIRABILITY OF OPENING THIS QUESTION BEFORE THE BOARD, FOR WE WOULD BE ESTABLISHING A PRECEDENT FOR AN ACTION THAT WE PROBABLY WOULD WISH TO OPPOSE IN THE FUTURE.

5. IN AN EFFORT TO SOLVE THE US DILEMMA AFFECTING FUTURE VIETNAMESE PAYMENTS, THE BANK MANAGEMENT HAS INDICATED A WILLINGNESS TO MAKE USE OF A LOAN REGULATION DESIGNED FOR ANOTHER PURPOSE. SECTION 3.06 OF LOAN REGULATIONS LIMITED OFFICIAL USE

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NO. 1 DATED NOVEMBER 28, 1967 (RE ORDINARY CAPITAL LOANS) AND SECTION 3.06 OF THE SPECIAL OPERATIONS LOAN REGULATIONS DATED MAY 6, 1969 (RE SPECIAL FUNDS LOANS) STATES: "PURCHASE OF CURRENCIES. THE BANK WILL, AT THE REQUEST OF THE BORROWER AND ON SUCH TERMS AND CONDITIONS AS THE BANK SHALL DETERMINE, PURCHASE ANY CURRENCY NEEDED BY THE BORROWER FOR PAYMENT OF PRINCIPAL, PREMIUMS, INTEREST AND OTHER CHARGES REQUIRED UNDER THE LOAN AGREEMENT UPON PAYMENT BY THE BORROWER OF SUFFICIENT FUNDS THEREFOR IN A CURRENCY OR CURRENCIES TO BE SPECIFIED BY THE BANK FROM TIME TO TIME. IN PURCHASING THE CURRENCIES REQUIRED THE BANK SHALL BE ACTING AS AGENT OF THE BORROWER AND THE BORROWER BE DEEMED TO HAVE MADE ANY PAYMENT REQUIRED UNDER THE LOAN AGREEMENT ONLY WHEN AND TO THE EXTENT THAT THE BANK HAS RECEIVED SUCH PAYMENT IN THE CURRENCY OR CURRENCIES REQUIRED." THE PURPOSE OF THE REGULATION IS TO ASSIST BORROWING COUNTRIES THAT RECEIVE THEIR LOANS IN UNUSUAL OR LITTLE USED CURRENCIES, SUCH AS THE SAUDI RIAL, TO CONVERT SUCH CURRENCIES INTO US DOLLARS. THE BANK WILL BE PREPARED TO MAKE USE OF THE REGULATION IN THIS CASE AND REQUEST VIET NAM TO MAKE FUTURE PAYMENTS IN CURRENCIES OTHER THAN DOLLARS DIRECTLY TO THE ADB,

WHICH IN TURN WILL CREDIT VIET NAM WITH THE EQUIVALENT AMOUNT OF DOLLARS. SINCE THE AMOUNTS INVOLVED ARE SMALL, THE ADB IS WILLING TO ABSORB THE MINOR EXCHANGE COSTS THAT ACCRUE DUE TO THE DIFFERENT BUYING AND SELLING RATES. THE BANK MAY NEED TO INFORM HANOI AS TO THE REASON FOR THE CHANGED PROCEDURE AND ALSO OBTAIN ITS APPROVAL BUT ASSUMES THAT THE VIETNAMESE AUTHORITIES WILL NOT OBJECT.

6. UNFORTUNATELY THE BANK IS UNABLE TO USE THIS PROCEDURE WITH REGARD TO THE \$5,437.50 PAYMENT RECENTLY AUTHORIZED BY VIET NAM AND RECEIVED BY THE FEDERAL RESERVE BANK OF NEW YORK. IN ORDER TO CONCLUDE THIS TRANSACTION, THE BANK

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ACTION TRSE-00

INFO OCT-01 EA-10 ISO-00 SP-02 ICA-11 AID-05 EB-08  
NSC-05 SS-15 STR-07 OMB-01 CEA-01 CIAE-00 COME-00  
FRB-03 INR-10 NSAE-00 XMB-02 OPIC-03 LAB-04  
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-----086093 120922Z /12

P 120853Z SEP 78  
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TO SECSTATE WASHDC PRIORITY 1420

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USADB

PASS TREASURYDEP FOR SHERK - OASIA

ASKS THAT THE TREASURY DEPARTMENT ISSUE A LICENSE TO AUTHORIZE THE RECEIPT OF THESE FUNDS, WHICH INCIDENTALLY APPARENTLY DID NOT ACTUALLY RESULT FROM THE REPAYMENT OF A LOAN PER SE BUT INVOLVED PAYMENT OF A COMMITMENT CHARGE BY VIET NAM ON THE UNDISBURSED PORTION OF A LOAN MADE IN 1973 FROM ORDINARY CAPITAL RESOURCES.

7. IF SUCH A LICENSE IS NOT GRANTED, IT WILL BE NECESSARY FOR THE ADB'S FINANCIAL STATEMENTS TO INCLUDE A FOOTNOTE THAT WILL STATE THAT VIET NAM HAS FULLY PAID ITS OBLIGATIONS BUT THAT THE MONEY IS BEING RETAINED BY THE UNITED STATES UNDER THE PERTINENT US REGULATIONS.

8. THE USADB HOPES THAT SUCH A STATEMENT COULD BE  
AVOIDED AND RECOMMENDS THAT A LICENSE BE GRANTED IN THIS  
PARTICULAR CASE. EDMOND

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## Message Attributes

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